

Alan F. Ciamporcero
Vice President

1275 Pennsylvania Avenue, N.W., Suite 400
Washington, D.C. 20004
(202) 383-6416

PACIFIC  **TELESIS**
Group-Washington

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September 13, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Dear Mr. Caton:

Re: *CC Docket No. 96-21, Bell Operating Company Provision of Out-of-Region
Interstate, Interexchange Services*

On behalf of Pacific Telesis Group, please find enclosed an original and six copies of
its "Opposition" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact
me should you have any questions or require additional information concerning this
matter.

Sincerely,

Alan F. Ciamporcero (J2B)

Enclosure

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Bell Operating Company Provision
of Out-of-Region Interstate,
Interexchange Services

CC Docket No. 96-21

OPPOSITION OF PACIFIC TELESIS GROUP

Pacific Telesis Group ("Pacific") hereby respectfully opposes the Petition for Reconsideration And/Or Clarification of MCI Telecommunications Corporation, filed August 8, 1996 ("MCI Petition"). MCI requests that, "where facilities-based outbound out-of-region international traffic carried by a BOC generates 'return' traffic terminating in the BOC's region, such return traffic be treated as in-region originating traffic and thus beyond the BOC's authority to terminate until it obtains in-region authority under Section 271 of the Communications Act." (MCI Petition, p. 1.)

MCI's Request Is Inconsistent with the Act. The international "return traffic" that MCI refers to is clearly within the Act's definition of "out-of-region services." Conversely, return traffic is clearly excluded from the definition of "in-region services." The Act is unambiguous. It defines out-of-region services as "interLATA services originating outside [the BOC's] in-region states after the date of enactment of the Telecommunications Act of 1996,

subject to subsection (j).”¹ Subsection (j) treats as in-region service “800 service, private line service, or their equivalents that ... allow the called party to determine the interLATA carrier.”²

Congress logically did not include return traffic from out-of-region operations in the category of in-region (and in-region equivalent) traffic. In the latter case, an in-region customer of an RBOC will determine which IXC carries the traffic. Out-of-region traffic presents no such issue: the customer plainly does not choose the carrier; instead a foreign carrier routes traffic, based on application of proportionate return rules. MCI’s suggested categorization, therefore, simply does not fit with the statutory scheme.

Indeed, MCI’s reading of the Act is completely illogical. As MCI and the Commission are aware, any facilities-based out-of-region services offered by a BOC affiliate inevitably will generate in-region return traffic, due to the proportionate return requirement.³ If the carriage of return traffic that terminates in region were somehow unlawful, no BOC could offer out-of-region facilities-based services until it received *in-region* approval. This would totally vitiate the distinction between in-region and out-of-region services contained in Section 271(b) and would be inconsistent with Congress’s clear intent to permit the BOCs to carry out-of-region traffic “immediately after the date of enactment.”⁴

No “Competitive And Ratepayer Protection Concerns” Apply to This Traffic.

Even if the Commission had the authority to prohibit the BOCs from carrying this out-of-region traffic, MCI has presented no reason that it should exercise that authority. First, as MCI admits

¹ 47 U.S.C. §271(b)(2).

² 47 U.S.C. §271(j).

³ 47 C.F.R. §64.1001(g)(1).

⁴ See 104th Cong., 2d Sess., H.R. Report 104-458, p. 147.

in a footnote, when “a carrier provides international service on a resale basis, rather than on a facilities basis, it cannot generate return traffic, since the allocation of return traffic is governed by the underlying facilities-based international carrier’s operating agreement.” (MCI Petition, n.5.) Currently Pacific has no international facilities. It would, at least initially, carry such return traffic on a resale basis, and thus would not be subject to “allocation of return.”

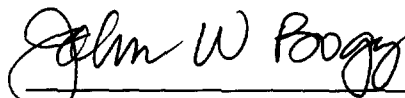
More important, even if Pacific or its affiliate were a facilities-based international carrier, no safeguards over and above the interim rules would be necessary to address “competitive and ratepayer protection concerns.” MCI has failed to identify a single concern that would be raised by international return traffic but not by other out-of-region traffic. The policies of the 1996 Act are not imperiled if BOC affiliates terminate return traffic in-region. Neither the calling nor the called party selects the carrier. Because no in-region customer selects the carrier, international return traffic is logically in a different category from in-region traffic as well as from “800 service, private line service, or their equivalents.” The BOCs cannot use any alleged dominance in any market to influence the choice of carrier. If anything, because no individual

selects the carrier, international return traffic belongs in a completely innocuous category all its own.

For the above reasons, MCI's Petition should be denied.

Respectfully submitted,

PACIFIC TELESIS GROUP

A handwritten signature in dark ink, appearing to read "John W. Bogy", is written over a horizontal line.

MARLIN D. ARD
RANDALL E. CAPE
JOHN W. BOGY

140 New Montgomery Street, Rm. 1530A
Fifteenth Floor
San Francisco, California 94105
(415) 542-0322

MARGARET E. GARBER


1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 383-6472

Its Attorneys

Date: August 13, 1996

CERTIFICATE OF SERVICE

I, Sue B. Ard, hereby certify that the foregoing "OPPOSITION OF PACIFIC TELESIS GROUP" to MCI's Petition regarding CC Docket No. 96-21, has been served this 13th day of September, 1996 to the parties listed below.

By: 
Sue B. Ard

Janice Myles *
Common Carrier Bureau
FEDERAL COMMUNICATIONS
COMMISSION
1919 M Street, N. W.
Room 544
Washington, D. C. 20554

Frank W. Krogh
Donald J. Elardo
MCI TELECOMMUNICATIONS
CORPORATION.
1801 Pennsylvania Avenue, N. W.
Washington, D. C. 20006

INTERNATIONAL TRANSCRIPTION *
SERVICE, INC. (ITS)
1919 M Street, N. W.
Room 246
Washington, D. C. 20554

* BY HAND